



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Office of Law Enforcement
1 Blackburn Drive, Room 206
Gloucester, MA 01930-2298

July 14, 2006

To whom it may concern:

The F/V _____, official number or state vessel license number _____, has been selected on _____ to carry a National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) certified observer, but has been deemed inadequate or unsafe to carry an observer due to the following conditions.

_____ The vessel does not have a current United States Coast Guard (USCG) Commercial Fishing Vessel Safety Examination (CFVSE) decal or written exemption from the decal requirement.

_____ The vessel does not have one or more of the following safety devices, (must also be in working order and in sufficient quantity) and therefore does not pass the NMFS Fisheries Sampling Branch (FSB) pre-trip vessel safety checklist:

- _____ (i) Personal flotation devices/immersion suits;
- _____ (ii) Ring buoys or other allowable flotation;
- _____ (iii) Distress signals;
- _____ (iv) Fire extinguishing equipment, when required;
- _____ (v) Emergency position indicating radio beacon (EPIRB), when required; and
- _____ (vi) Survival craft, when required.

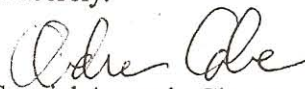
Because this vessel has been selected to carry an observer on its next fishing trip, it is illegal for this vessel to engage in the following fishing activity without an observer on board.

- 1) Any Category I or II fishery currently listed under the Marine Mammal Protection Act.
- 2) Any federally permitted fishery in the Northeast region listed in 50 C.F.R Sections 648.11(a) and 697.12. Currently, those species are Atlantic sea scallops, NE multispecies, monkfish, skates, Atlantic mackerel, squid, butterfish, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, tilefish, Atlantic deep-sea red crab; summer flounder (moratorium permit), and American lobster.

An observer can not depart on this vessel until the corrective measure(s) have been completed. The NOAA Office of Law Enforcement (OLE) and the USCG will monitor the vessel's activity. If the vessel fishes in one of the fisheries listed above prior to completing the corrective measures, seizure of the vessel's catch, termination of the trip and/or civil penalty assessments to the owner and/or operator of the vessel may occur.

Once the corrective measure(s) have been completed, please contact Special Agent (SA) Tom Gaffney at (508)-738-1471. SA Gaffney will notify the observer contractor that the corrective measures have occurred. The observer contractor will then notify you if you are required to carry an observer or will be receiving a waiver for your next fishing trip.

Sincerely:



Special Agent in Charge, Andrew Cohen
NOAA Fisheries Office of Law Enforcement

The regulations which pertain to observer safety are listed in Part 50 section 600.746 of the Code of Federal Regulations (CFR). Pertinent sections of these regulations are reprinted below.

50 CFR 600.746

- a) Applicability. This section applies to any fishing vessel required to carry an observer as part of a mandatory observer program or carrying an observer as part of a voluntary observer program under the Magnuson-Stevens Act, MMPA (16 U.S.C. 1361 et seq.), the ATCA (16 U.S.C. 971 et seq.), the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.), or any other U.S. law.
- (b) Observer requirement. An observer is not required to board, or stay aboard, a vessel that is unsafe or inadequate as described in paragraph (c) of this section.
- (c) Inadequate or unsafe vessels.
- (1) A vessel is inadequate or unsafe for purposes of carrying an observer and allowing operation of normal observer functions if it does not comply with the applicable regulations regarding observer accommodations (see 50 CFR parts 229, 300, 600, 622, 635, 648, 660, and 679) or if it has not passed a USCG safety examination or inspection. A vessel that has passed a USCG safety examination or inspection must display one of the following:
- (i) A current Commercial Fishing Vessel Safety Examination decal, issued within the last 2 years, that certifies compliance with regulations found in 33 CFR, chapter I and 46 CFR, chapter I;
- (ii) A certificate of compliance issued pursuant to 46 CFR 28.710; or
- (iii) A valid certificate of inspection pursuant to 46 U.S.C. 3311.
- d) Corrective measures. If a vessel is inadequate or unsafe for purposes of carrying an observer and allowing operation of normal observer functions, NMFS may require the vessel owner or operator either to:
- (1) Submit to and pass a USCG safety examination or inspection; or
- (2) Correct the deficiency that is rendering the vessel inadequate or unsafe (e.g., if the vessel is missing one personal flotation device, the owner or operator could be required to obtain an additional one), before the vessel is boarded by the observer.
- (e) Timing. The requirements of this section apply both at the time of the observer's boarding, at all times the observer is aboard, and at the time the observer is disembarking from the vessel.
- f) Effect of inadequate or unsafe status. A vessel that would otherwise be required to carry an observer, but is inadequate or unsafe for purposes of carrying an observer and for allowing operation of normal observer functions, is prohibited from fishing without observer coverage.